

**MINUTES OF THE
ARIZONA STATE BOARD OF TECHNICAL REGISTRATION
Tuesday, April 23, 2013
Meeting
9:30 a.m.
OPEN SESSION**

1. **CALL TO ORDER** – Chairman Erick F. Weiland called the meeting of the Board of Technical Registration to order at 9:30 a.m.
2. **ROLL CALL** – Board Members in attendance: Erick F. Weiland, LeRoy Brady, Douglas T. Whitneybell, Stuart R. Lane, Robert Stanley, Edward T. Marley, Alejandro Angel, Ph.D., and Jason K. Madison. Absent: Douglas Folk. Staff: Ronald Dalrymple, Melissa Cornelius, Lorraine Brown, Kathryn Fuller, Manuel Maltos, Lisa Vardian, and Gina Latour. Assistant Attorney General: Elizabeth Campbell.
3. **CALL TO THE PUBLIC** – No members of the public addressed the Board.
4. **ADOPTION OF MINUTES** – Mr. Marley moved to approve the March 26, 2013 minutes. Mr. Lane seconded. After discussion, motion carried.
5. **ENFORCEMENT MATTERS**
Formal Administrative Hearing:
M05-344 Brian K. Von Allworden, P.E. (Civil) #30329 – Mr. Marley, Mr. Madison and Mr. Stanley recused themselves, citing a conflict of interest. A quorum was achieved by the remaining five (5) members in attendance. The Board held a formal administrative hearing in the matter of Case #M05-344, Brian K. Van Allworden. The State and Respondent gave opening statements, presented evidence, including witness testimony, and made closing arguments. The Board determined that Respondent's actions violated the practice act when he stamped and sealed documents that he did not prepare or were not prepared by his bona fide employee. It made Findings of Fact, Conclusions of Law and ordered that Respondent's Professional Engineer Registration #30329 be issued a Letter of Reprimand; that he take Professional Education in Ethics and pay Costs of Investigation in the amount of \$575.

Review, Consideration, and Possible Action on the following:
 - A. Proposed Dismissal
 1. M13-014, Lourdes E. Foster, P.E. (Structural) #26211 – Mr. Stanley moved to dismiss the case. Mr. Marley seconded. After discussion, motion carried.
 - B. Proposed Letter of Concern
Mr. Lane moved to place agenda items 5.B.1, 5.B.3, 5.B.5, 5.B.6, and 5.B.8 on consent agenda and to accept Staff's recommendations. Mr. Marley seconded. After discussion, motion carried.

CONSENT AGENDA

1. (5.B.1) HI13-001, Mark L. Jensen, Certified Home Inspector #42668 – on consent agenda, the Board moved to issue a Letter of Concern to Respondent for failure to meet

the Arizona Standards of Professional Practice for Home Inspectors , in violation of A.R.S. § 32-128(C)(4); A.A.C. R4-30-301.01(A).

2. (5.B.3) M13-029, Howard M. Brown, Land Surveyor #23942 – on consent agenda, the Board moved to issue a Letter of Concern to Respondent for failure to apply the technical knowledge and skill which would be applied by other qualified registrants who practice the same profession in the same area and at the same time, in violation of A.R.S. § 32-128(C)(4); A.A.C. R4-30-301(6).
3. (5.B.5) M13-009, William H. Standage, Land Surveyor #25403 – on consent agenda, the Board moved to issue a Letter of Concern to Respondent for failure to conduct the survey in accordance with the Arizona Boundary Survey Minimum Standards, in violation of A.R.S. § 32-128(C)(4); A.A.C. R4-30-301(13).
4. (5.B.6) M13-031, Reece A. Ubben, Land Surveyor #42840 – on consent agenda, the Board moved to issue a Letter of Concern to Respondent for failure to conduct the survey in accordance with the Arizona Boundary Survey Minimum Standards, in violation of A.R.S. § 32-128(C)(4); A.A.C. R4-30-301(13).
5. (5.B.8) M12-063, Don W. Jolley, Architect #30779 – on consent agenda, the Board moved to issue a Letter of Concern to Respondent for failure to apply the technical knowledge and skill which would be applied by other qualified registrants who practice the same profession in the same area and at the same time, in violation of A.R.S. § 32-128(C)(4); A.A.C. R4-30-301(6).

REMOVED FROM CONSENT AGENDA

Handled Separately

6. (5.B.2) M13-036, Gregory B. Junkar, Land Surveyor #39130 – Mr. Lane moved to issue a Letter of Concern to Respondent for failure to conduct the survey in accordance with the Arizona Boundary Survey Minimum Standards, in violation of A.R.S. § 32-128(C)(4); A.A.C. R4-30-301(13). Mr. Whitneybell seconded. After discussion, motion carried.
7. (5.B.4) M13-019, Gary Stocker, Land Surveyor #17516 – Mr. Stocker addressed the Board. Mr. Lane moved to issue Consent Agreement. Dr. Angel seconded. After discussion, motion failed.

Mr. Whitneybell moved to issue Letter of Concern. Mr. Marley seconded. After discussion, motion failed.

Mr. Lane moved to table this issue until next month's Board Meeting, to give Respondent an opportunity to provide evidence of a recorded survey. Mr. Whitneybell seconded. After discussion, motion carried.

8. (5.B.7) M10-083, Robert J. Ghan, P.E. (Mechanical) #11873 – Mr. Madison recused himself, citing a conflict of interest. Dr. Angel moved to issue a Consent Agreement with a Letter of Reprimand, if not accepted case will be forwarded to a formal hearing

for failure to apply the technical knowledge and skill which would be applied by other qualified registrants who practice the same profession in the same area and at the same time, in violation of A.R.S. § 32-128(C)(4); A.A.C. R4-30-301(6). Mr. Lane seconded. After discussion, motion carried.

9. (5.B.9) M11-007, James D. Rush, Architect #18733 – Dr. Angel moved to dismiss the case. Mr. Marley seconded. After discussion, motioned carried.

10. (5.B.10) M10-026, Robert Burns Architects, Inc. / Robert W. Burns, Architect #14350 – Dr. Angel moved to issue a Consent Agreement with a Letter of Reprimand and pay investigation costs, if not accepted case will be forwarded to a formal hearing for failure to pay Wilson Engineering \$15,800.00 for their June 2009 engineering services within the required time, in violation of A.R.S. § 32-128(C)(5). Mr. Marley seconded. After discussion, motion carried.

C. Proposed Consent Agreements

Mr. Lane moved to place agenda items 5.C.1 – 5.C.9 on consent agenda and to accept Staff's recommendations. Mr. Marley seconded. After discussion, motion carried.

CONSENT AGENDA

1. (5.C.1) HI13-002, David D. Sturgeon, Certified Home Inspector #40109 – on consent agenda, the Board accepted Respondent's signed Consent Agreement encompassing the following Order: Letter of Reprimand, pay an administrative penalty in the amount of \$1,000.00, take and successfully complete an open book test on the Board's Statutes and Rules within thirty (30) days passing with a 100% score and pay cost of investigation in the amount of \$222.00.
2. (5.C.2) HI13-007, Ronald C. Fillet, Certified Home Inspector #38567 – on consent agenda, the Board accepted Respondent's signed Consent Agreement encompassing the following Order: Letter of Reprimand, pay and administrative penalty in the amount of \$600.00, take and successfully complete an open book test on the Board's Statutes and Rules within thirty (30) days passing with a 100% score and pay costs of investigation in the amount of \$165.00.
3. (5.C.3) M13-045, Merestone Land Surveying, LLC – on consent agenda, the Board accepted Respondent Firm's signed Consent Agreement encompassing the following Order: Pay an administrative penalty in the amount of \$500.00 and pay cost of investigation in the amount of \$75.00.
4. (5.C.4) M13-032, Claudia Morea P.E., L.S. (Firm) – on consent agenda, the Board accepted Respondent Firm's signed Consent Agreement encompassing the following Order: Pay an administrative penalty in the amount of \$500.00 and pay cost of investigation in the amount of \$75.00.
5. (5.C.5) M13-048, Scott T. Burden Land Surveyor (Firm) – on consent agenda, the Board accepted Respondent Firm's signed Consent Agreement encompassing the following Order: Pay an administrative penalty in the amount of \$500.00 and pay cost

of investigation in the amount of \$75.00.

6. (5.C.6) M13-007, Richard T. Mead Land Surveyor (Firm) – on consent agenda, the Board accepted Respondent Firm’s signed Consent Agreement encompassing the following Order: Pay an administrative penalty in the amount of \$850.00 and pay cost of investigation in the amount of \$75.00.
7. (5.C.7) M13-035, Surface Engineering Company – on consent agenda, the Board accepted Respondent Firm’s signed Consent Agreement encompassing the following Order: Pay an administrative penalty in the amount of \$500.00 and pay cost of investigation in the amount of \$75.00.
8. (5.C.8) M13-049, Jim’s Land Surveying & Consulting – on consent agenda, the Board accepted Respondent Firm’s signed Consent Agreement encompassing the following Order: Pay an administrative penalty in the amount of \$500.00 and pay cost of investigation in the amount of \$75.00.
9. (5.C.9) HI13-003, Kevin M. Howard, Certified Home Inspector #39408 – on consent agenda, the Board accepted Respondent’s signed Consent Agreement encompassing the following Order: Letter of Reprimand, pay an administrative penalty in the amount of \$600.00, take and successfully complete an open book test on the Board’s Statutes and Rules within thirty (30) days passing with a 100% score and pay cost of investigation in the amount of \$193.00.

D. Discussion and Consideration and Possible Action

1. M05-055, Mojtaba Mir Mosallai – Mr. Marley recused himself, citing a conflict of interest. Mr. Mosallai addressed the Board. Mr. Lane moved to forward to the Attorney General’s Office for collections on cost of investigations and hearing cost. Dr. Angel seconded. After discussion, motion carried.
2. M13-053, Kenneth M. Tarr, P.E. (Civil) #31317 – Mr. Tarr addressed the Board and provided a treatment letter from the Veteran’s Administration (VA). Mr. Brady moved to convene an Executive Session. Mr. Marley seconded. After discussion, motion carried.

Executive Session convened at 10:41 a.m. and adjourned at 10:55 a.m.

Dr. Angel moved to issue a Consent Agreement encompassing the following Order: Probation until his court ordered probation is completed, provide a letter of treatment program completion from the VA and to not incur another Driving under the Influence charge. Mr. Marley seconded. After discussion, motion carried.

3. M11-071, Michael P. Wier, Land Surveyor #07247 – Mr. Wier addressed the Board. Mr. Lane moved that if Staff was unable to obtain a signed consent agreement encompassing a Letter of Reprimand within thirty (30) days then forward the case to a formal hearing. Dr. Angel seconded. After discussion, motion carried.
4. M06-126, Kevin R. Ashby, P.E. (Civil) #35873 – Assistant Attorney General, Christopher Munns, of the Solicitor General’s Office appeared and provided guidance

to the Board. Dr. Angel moved to issue a Letter of Concern to Respondent for failure to apply the technical knowledge and skill which would be applied by other qualified registrants who practice the same profession in the same area and at the same time, in violation of A.R.S. § 32-128(C)(4); A.A.C. R4-30-301(6). Mr. Lane seconded. After discussion, motion carried with Mr. Whitneybell casting the only Nay vote.

5. M06-127, Kevin R. Ashby, P.E. (Civil) #35873 – Solicitor General, Mr. Munns, appeared and provided guidance to the Board. Dr. Angel moved to issue a Letter of Concern to Respondent for failure to apply the technical knowledge and skill which would be applied by other qualified registrants who practice the same profession in the same area and at the same time, in violation of A.R.S. § 32-128(C)(4); A.A.C. R4-30-301(6). Mr. Lane seconded. After discussion, motion carried with Mr. Whitneybell casting the only Nay vote.

E. Forward to Formal Hearing

1. M06-302, Kevin R. Ashby, P.E. (Civil) #35873 – Dr. Angel moved to forward to Formal Hearing. Mr. Lane seconded. After discussion, motion carried with Mr. Whitneybell casting the only Nay vote.

F. Proposed Peer Review Candidates

1. M09-133, Ronald D. Montgomery, Architect #41680 – Mr. Stanley moved to approve Respondent's three (3) peer review candidates to review Respondent's next two (2) projects involving structural engineering. Mr. Lane seconded. After discussion, motion carried.

6. LICENSING MATTERS

Review, Consideration, and Possible Action on the following:

- A. Gupta, Shuchi, Architect Application #051340 – Ms. Gupta addressed the Board telephonically. Mr. Marley moved to grant Applicant a three (3) year extension from today's date, to take and pass the Architect Registration Examination (ARE). Mr. Lane seconded. After discussion, motion carried with Dr. Angel casting the only Nay vote.
- B. Hellner, Andrew, Architect In-Training Application #070375 – Mr. Hellner addressed the Board. Mr. Marley moved to close the application. Applicant will have to reapply for Professional registration, pass the ARE and complete the Intern Development Program (IDP). Mr. Whitneybell seconded. After discussion, motion carried.
- C. Pouland, Kimberly, Architect In-Training Application #080102 – Mr. Stanley moved to deny Applicant's request for extension. Applicant will have to reapply for Professional registration and complete IDP. Mr. Marley seconded. After discussion, motion carried.
- D. Brookes, Michael, Electrical Engineer Application #121229 – Mr. Lane moved to deny Applicant's registration based upon Applicant's lack of good moral character. Mr. Brady seconded. After discussion, motion carried.
- E. Kennelly, James, Mechanical Engineer Application #130119 – Mr. Kennelly addressed the Board. The Board requested that applicant to attend and make his request to appeal the evaluator's decision at the August 27, 2013 Board Meeting. The Board tabled this case

until August 27, 2013. No motion taken by the Board.

7. LICENSING CONSENT AGENDA

Mr. Stanley moved that the applicants listed in 7A(1) be granted professional registration, certification, or in-training designation; that the applicants listed in 7A(2) be approved to sit for the professional or in-training examinations; that the applicants in 7A(3) be granted professional registration; that the applicants in 7A(4) be granted professional registrations, certifications, or in-training designations or authorizations to test for those applicants who disclosed minor criminal history that does not reasonably relate to the applicant's proposed area of practice or who disclosed disciplinary action taken against their registrations in other jurisdictions; and the applicants listed in 7A(5) be administratively closed. Mr. Lane seconded. After discussion, motion carried.

- A. Review, Consideration, and Action on the Evaluation Committee and Staff recommendations for the following: (Lists of names available at the Board's office for public review):
1. Granting professional registrations, certifications or in-training designations pursuant to A.R.S. § 32-122.01 and § 32-123.
 2. Granting approval to applicants to sit for the professional or in-training examinations pursuant to A.R.S. § 32-122.
 3. Granting professional registrations to those applicants possessing NCARB Blue Cover or NCEES Model Law Engineer certifications pursuant to A.R.S. § 32-122.01 and § 32-123.
 4. Granting professional registrations, certifications or in-training designations or authorizations to test to those applicants who disclosed minor criminal history that has no reasonable relationship to the applicant's proposed area of practice or who disclosed disciplinary action taken against their registrations in other jurisdictions, pursuant to A.R.S. § 32-122, § 32-122.01, and § 32-123.
 5. Administratively closing professional or in-training applications pursuant to A.R.S. § 32-122, § 32-122.01(A); A.A.C. R4-30-204(E).

REMOVED FROM CONSENT AGENDA

Handled separately

- A. (7.A.4) Bell, Bruce D., Civil Engineer Application #110859 – Mr. Stanley moved to request to Mr. Bell to attend next month's Board meeting for better clarification on Felony charge. Mr. Lane seconded. After discussion, motion carried.
- B. (7.A.4) Bryson, Ryan, Land Surveyor Application #120833 – Mr. Stanley moved to request to Mr. Bryson to attend next month's Board meeting for better clarification on Misdemeanor charge. Mr. Lane seconded. After discussion, motion carried.

8. POLICY MATTERS

Review, Consideration, and Possible Action on the following:

- A. Review, discussion and possible action on application and renewal fees for alarm businesses and personnel.

Ben Wilson from the Arizona Alarm Association was present to answer any questions regarding the alarm industry. Mr. Lane moved to approve the following fees: Alarm Firm Application \$20.00, Alarm Firm Certificate \$40.00 every two (2) years, Controlling Person \$65.00 every year and Alarm Agent \$130.00 every 2 years. Mr. Stanley seconded. After discussion, motion carried.

- B. Review, discussion and possible action to authorize the Executive Director to issue a certificate or renewal certificate to each alarm business, controlling person and alarm agent that meet the certificate requirements (A.R.S. § 32-106.J).

Mr. Brady moved to authorize the Executive Director to issue certificates to each alarm business, controlling person and alarm agent that meet the certificate requirements. Mr. Madison seconded. After discussion, motion carried.

- C. Review, discussion and possible action to approve National Council of Examiners for Engineering and Surveying (NCEES) testing contract by letter.

Dr. Angel moved to approve the contract by letter with modifications and requested that Staff bring the final letter back to the Board for review and comment. Mr. Lane seconded. After discussion, motion carried.

9. REVIEW, CONSIDERATION, AND ACTION ON THE FOLLOWING:

- A. Registrations that have been expired for three (3) years and recommended to be cancelled:
(List available at the Board's office)

Mr. Stanley moved to cancel Registrations which have been expired for three (3) years. Mr. Marley seconded. After discussion, motion carried.

- B. Certifications that have been expired for one (1) year and recommended to be cancelled:
(List available at the Board's office)

Mr. Stanley moved to cancel Certification which have been expired for one (1) year. Mr. Lane seconded. After discussion, motion carried.

10. **DIRECTOR'S REPORT** – Director Dalrymple provided a written report and gave an update on receiving the computer software that will generate identification cards for the alarm industry certificate holders and informed the Board that the office will soon be renovated.

10. **BOARD CHAIR'S REPORT** – No report given.

12. STANDING COMMITTEE REPORTS

1. Legislation and Rules Committee (L&R) – Ms. Vardian reported the next meeting will be July 18, 2013.
2. Budget Committee – Director Dalrymple provided a written cash flow report.
3. Home Inspector Rules and Standards Committee (HIRSC) – Mr. Whitneybell reported the Committee met on April 16, 2013. The Pool and Spa rule package was approved by the Governor's Regulatory Review Counsel (GRRRC) on April 2, 2013. They reviewed educational courses available for disciplinary purposes and discussed options for Enforcement Advisory Committee (EAC) member training.
4. Environmental Remediation Rules and Standards Committee (ERRSC) – No report given.

13. BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES

1. National Council of Examiners for Engineering and Surveying (NCEES) – Mr. Stanley reported that Ms. Cornelius, Dr. Angel and himself attended the meeting in San Francisco. Ms. Cornelius reported that Arizona is hosting a zone meeting in 2015.
2. National Council of Architectural Registration Boards (NCARB) – Mr. Marley reported an annual meeting will be between June 19th through 22nd in San Diego.
3. Council of Landscape Architectural Registration Boards (CLARB) – No report given.
4. National Association of State Boards of Geology (ASBOG) – Mr. Weiland reported there is an Administrator's Session at the National Meeting in November 2013.
5. Public Member News/Information – No report given.

14. FUTURE BOARD MEETINGS

- A. Tuesday, May 28, 2013 at 9:30 a.m.

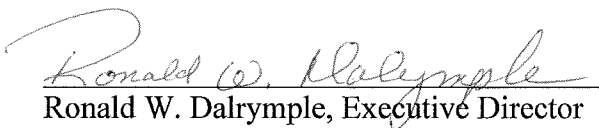
15. SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS

- Review, discuss and possible action on new architect application.

16. ADJOURNMENT – Meeting adjourned 2:15 p.m.



Erick Fred Weiland, Chairman



Ronald W. Dalrymple, Executive Director